

Notice of Allowability

Application No.

09/944,033

Applicant(s)

TAYMOURIAN ET AL.

Examiner

Todd J. Kilkenny

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12-1-03.
2. ☒ The allowed claim(s) is/are 1,3-18,22,23,25,27 and 28.
3. ☒ The drawings filed on 30 August 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>12-1-03</u> . |
| 3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____ | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with David Zinger on December 1, 2003.

The application has been amended as follows:

IN THE CLAIMS:

Previously withdrawn Claims 1 – 9, have been rejoined. Claim 2 has been canceled, Claim 1 has been amended and the status of Claims 1 – 9 has been updated as set forth below. Claims 10 – 28 are in proper status as presented in the Amendment filed 10-30-03.

1. (Currently Amended) A wallboard, comprising:

a first member;

a second member; and

a composition disposed between said first and second members, wherein said composition is made using at least:

- (a) fly ash in the range of about 60% - 66% by weight;
- (b) water in the range of about 31% - 37% by weight; and
- (c) at least a first binder in the range of about 1.8% - 2.4% by weight.

2. (Canceled).

3. (Original) A wallboard, as claimed in Claim 1, wherein:

said composition has a second binder that is part of a foamable solution that includes portions of said water and said second binder being one of: compatible with and equivalent to said first binder.

4. (Original) A wallboard, as claimed in Claim 1, wherein:

portions of said water and said at least first binder are provided in a binder solution and remaining portions of said water and a second binder that is one of: compatible with and equivalent to said first binder are provided as part of a foamable solution.

5. (Original) A wallboard, as claimed in Claim 1, wherein:

said composition includes a fiber material that is less than 1% by weight of said composition.

6. (Original) A wallboard, as claimed in Claim 1, wherein:

said at least first binder is different from polyvinyl acetate.

7. (Original) A wallboard, as claimed in Claim 1, wherein:
said composition when made consists essentially of said fly ash, a binder solution that includes parts of said water and parts of said at least first binder and a foamable solution that includes remaining portions of said water and remaining portions of said at least first binder.
8. (Original) A wallboard, as claimed in Claim 1, wherein:
said wallboard has a nail pull strength of between about 80.0 to 130.0 (lbs.) and a density between about 0.58 to 0.79 (gm/ml).
9. (Original) A wallboard, as claimed in Claim 1, wherein:
said composition has a viscosity in the range of about 600,000 to 1,500,000 centipoise when said composition is initially disposed between said first and second members.

The following is an examiner's statement of reasons for allowance: Claims 1 and 3 – 9 have been rejoined as amended claim 1 now includes the allowable composition of fly ash, water and the at least a first binder as recited in independent claims 10 and 25, which was previously indicated as allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd J. Kilkenny whose telephone number is (703) 305-6386 or if attempting to contact after December 18, 2003 (571) 272-1219. The examiner can normally be reached on Mon - Fri (9 - 5).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

TJK

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JEFF H. AFTERGUT
PRIMARY EXAMINER
GROUP 1300